

Remarks

Claims 1-24 are pending in this application. Claims 8 and 15-24 have been withdrawn as drawn to non-elected Groups. Claim 1 has been amended. Support for the amendment to claim 1 can be found throughout the specification, for example at least in Figures 1-6, Figure Descriptions on page 9, line 24 – page 11, line 9 and Example 1.

No new matter is introduced by the foregoing amendments. Consideration and allowance of the pending claims are requested.

Telephone Interview:

Applicants thank Examiner Calamita for the courtesy of a telephone interview with their representative, Karri Kuenzli Bradley, on July 2, 2007. During the telephone conference, the pending 35 U.S.C. §102(b) rejection was discussed as detailed further below.

Complete agreement on claim amendments or arguments for overcoming the pending rejection was not reached; however, the Examiner provided helpful guidance and agreed to consider claim amendments and arguments filed by Applicants in a response to the Office action. It is believed that this Amendment conforms to the spirit of the discussion had during the telephone interview.

Rejections under 35 U.S.C. §102(b)

Claims 1-7 and 9-14 have been rejected under 35 U.S.C. §102(b), as allegedly anticipated by Rutanen *et al.* (*Fertility and Sterility*, 73(5): 1020-1024, 2000; hereinafter Rutanen *et al.*). Applicants respectfully traverse this rejection for at least the following reasons.

To establish anticipation, each and every element of the claimed invention must be disclosed in a single prior art reference (*Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). Claims 1-7 and 9-14 are not anticipated by Rutanen *et al.* at least because Rutanen *et al.* do not disclose an External Movement Inhibitor device as presently required by the claims.

Rutanen *et al.* employ Northern blot analysis to evaluate expression of tissue-type plasminogen activator (t-PA) and a specific plasminogen activator inhibitor type 1 (PAI-1) in endometrial tissue samples. They do not utilize an External Movement Inhibitor device in any of their studies. The Office contends that the term “External Movement Inhibitor device” is not defined in the specification and therefore has been interpreted broadly as “anything preventing movement of the molecular species on the array.” As such, the Office alleges that Rutanen *et al.* disclose an External Movement Inhibitor device because a “bond keeping the RNA on the membrane serves as an external movement inhibitor because the bond prevents the movement of the RNA on the array” (Office Action, page 3). As stated in MPEP § 2111.01, words and phrases in claims must be given their “plain meaning” as understood by one having ordinary skill in the art unless defined by applicant in the specification with “reasonable clarity, deliberateness, and precision.” Here, the plain meaning of the term “device” (as it appears in the claim) is a tool or machine designed to perform a particular task or function (*i.e.*, for example, as defined on page 618 in Webster's Third New International Dictionary, of the English Language, Unabridged (Merriam Webster, Copyright 1976) attached herewith as Exhibit A). In contrast, a “bond” is the way in which one surface sticks to another or a fundamental attractive force that binds atoms and ions in a molecule (*Id.* at page 250). Accordingly, a bond does not fall within the definitional scope of a device under the plain meaning of either term.

Additionally, not only does a plain meaning interpretation of the word “device” support the argument that Rutanen *et al.* fail to disclose an External Movement Inhibitor device as presently claimed, but the specification and claims as originally filed support such a finding. Exemplary embodiments of an External Movement Inhibitor device can be found throughout the original specification, including Figures 1-6 and Example 1. As clearly indicated by the specification and as claimed in originally filed claim 1, the External Movement Inhibitor device is a device that includes “multiple discrete partitions so as to sequester molecules present in said array into one or more discrete regions.” Nowhere do Rutanen *et al.* teach, suggest or disclose “an External Movement Inhibitor device having multiple discrete partitions so as to sequester molecules present in said array into one or more discrete regions as required by originally filed

claim 1. Therefore, Rutanen *et al.* do not disclose an External Movement Inhibitor device as presently claimed.

Finally, the Examiner indicated during the Examiner's Interview that language which further describes the attributes of the External Movement Inhibitor device would facilitate prosecution. Therefore, claim 1 has been amended to recite an External Movement Inhibitor device having multiple discrete partitions "wherein the multiple discrete partitions comprise at least one of a plurality of grids or a plurality of wells". Nowhere do Rutanen *et al.* teach, suggest or disclose "an External Movement Inhibitor device having multiple discrete partitions wherein the multiple discrete partitions comprise at least one of a plurality of grids or a plurality of wells" as currently required by the claims. Thus, even if one were to concede to the broad interpretation of the term "External Movement Inhibitor device" currently being imposed by the Office, which Applicants do not, a bond does not have "multiple discrete partitions comprising a plurality of grids or a plurality of wells" as is required by the present claims. Therefore, Rutanen *et al.* do not disclose an External Movement Inhibitor device as presently claimed.

As Rutanen *et al.* does not properly anticipate the current claims, Applicants respectfully request that the rejection under 35 U.S.C. §102(b) for claims 1-7 and 9-14 be withdrawn.

Lack of Issues under §112

Applicants thank the Office for finding the claims fully enabled, described and clear, which is understood because no rejections under 35 U.S.C. §112 were issued.

Request for Rejoinder

Applicants thank the Examiner for recognizing that claim 1 is a generic claim (Restriction Requirement, November 29, 2006). Thus, Applicants request that withdrawn claims be rejoined as provided by 37 CFR 1.141 which states that upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim.

Conclusion

Applicants respectfully submit that the claims submitted herewith are in condition for allowance. If any issues impede the issuance of a notice of allowance, the Examiner is requested to contact the undersigned prior to the mailing of a subsequent action in order to arrange a telephone interview. It is believed that a brief discussion of the merits of the present application may expedite prosecution and allowance of the claims.

Respectfully submitted,

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